more, the party against whom the decree was granted was not the owner of the land. Therefore it is submitted that the whole decree was null and void; that the lease to the present plaintiff was valid; and that he accordingly had no right to recover back the money paid.

MORTGAGES — PRIORITIES — PRIORITY OF PURCHASE-MONEY MORTGAGE ACQUIRED AT FORECLOSURE SALE OVER EXISTING SECOND MORTGAGE. — A property owner who had given first and second mortgages purchased the property under a foreclosure of the first mortgage, giving a purchase-money mortgage to the plaintiff, a third person. The plaintiff now seeks to foreclose this mortgage. The second mortgagee claims priority. *Held*, that the plaintiff's mortgage has priority. *Duer* v. *Jaeger*, 186 N. Y. Supp. 584 (Sup. Ct.).

A purchaser at a foreclosure sale of mortgaged property will ordinarily take free from all junior liens or mortgages. *Schnantz* v. *Schellhaus*, 37 Ind. 85; *Heinroth* v. *Frost*, 250 Ill. 102, 95 N. E. 65. But where such purchaser is the mortgagor himself, it is clearly equitable that junior liens be revived against him. *Otter* v. *Lord Vaux*, 6 De. G., M. & G. 638. When, however, he gives a purchase-money mortgage to a third person who pays off the first mortgage, the new mortgage should have priority over the junior lien. See 26 HARV. L. REV. 261. The reason usually given is that the whole transaction is over in a breath, and the purchase-money mortgage has attached before the junior lien has had time to obtain priority. *Warren Mortgage Co.* v. *Winters*, 94 Kan. 615, 146 Pac. 1012; *Rees* v. *Ludington*, 13 Wis. 276. See *Western Tie & Timber Co.* v. *Campbell*, 113 Ark. 570, 169 S. W. 253. Such reasoning is artificial and savors of the mechanical habits of the mediaeval mind. In reality the situation amounts merely to substitution of one first mortgage for another. *See Protestant Episcopal Church* v. *E. E. Lowe Co.*, 131 Ga. 666, 63 S. E. 136; *Haywood* v. *Nooney*, 3 Barb. (N. Y.) 643. At least if the purchase-money mortgage is no greater than the original first mortgage, the junior lien-holder is no worse off than before, and he can urge no equitable grounds upon which he should be promoted to the first place.

POLICE POWER — INTEREST OF PUBLIC HEALTH — LICENSING ACT DISCRIMINATING AGAINST CHIROPRACTORS. — Defendant was convicted under a statute prohibiting the practice of drugless healing without a license. The statute provided that a license could be applied for only on the successful completion of a four-year course in a reputable school teaching that system; whereas for the regular medical and surgical license no definite length of study was required. (1917 ILL. LAWS, p. 580; 1917 ILL. REV. STAT., c. 91, § 9.) Defendant, a chiropractor, attacks the constitutionality of this statute. *Held*, the statute is unconstitutional. *People* v. *Love*, 131 N. E. 809 (Ill.).

The legislature has power to make laws to protect the public health, and so especially to regulate the practice of medicine and healing. *Dent* v. *West Virginia*, 129 U. S. 114. Under this power the legislature may make such regulations of chiropractic as are reasonably related to the public good. *State* v. *Smith*, 233 Mo. 242, 135 S. W. 465. Possibly it could be prohibited altogether, on the ground that more harm than good will come of treating all diseases solely by manipulations of the vertebræ. Courts should respect legislative judgment in such exercise of the police power. See *Jacobson* v. *Massachusetts*, 197 U. S. 11; *Powell* v. *Pennsylvania*, 127 U. S. 678. There is, then, no objection to the statute on the ground of due process. But, as a physician might practice chiropractic under his general license, the question arises whether the legislature is denying equal protection of the laws in requiring fewer years of study for such a license than for a license to practice drugless healing alone. Here again the court should defer to legislative au-

thority if any possible reason can be seen for the distinction. See *Williams* v. *Arkansas*, 217 U. S. 79. At first blush, it seems highly unreasonable to require more time to be spent in learning less. But the practical operation of the statute is to burden chiropractic when carried on as a separate profession. In view of the fact that when so carried on it may be more dangerous than when used in connection with general medical methods, the statute should be upheld. See *contra*, *State* v. *Gravett*, 65 Ohio St. 289, 62 N. E. 325.

PROXIMATE CAUSE — INTERVENING CAUSES — FORESEEABLE FAILURE TO AVOID DANGER.—The plaintiff's intestate was killed in serving the defendant interstate carrier. He was crushed between the end of a shunted car on which he was working and the defective end of a standing, loaded car, which, as he knew, lacked drawbar and coupler. His job was to stop his car before it reached the other. The drawbar and coupler would have prevented the accident by separating the cars. The Safety Appliance Acts forbid the use of cars without such appliances. (27 STAT. AT L. 531, §§ 2, 8; 32 STAT. AT L. 943, § 1.) Contributory negligence and assumption of risk are made immaterial. (35 STAT. AT L. 69, §§ 3, 4). *Held*, that a judgment denying recovery be affirmed. *Lang* v. *N. Y. Central R. R. Co.*, U. S. Sup. Ct., Oct. Term, 1920, No. 290.

The majority say the defendant's violation of law was not a proximate cause of the decedent's death. It was clearly a cause. In view of a verdict for the plaintiff in the trial court, as well as the ordinary course of activities in railroad yards, it must be taken that such accidents from collision were risked by the defendant's failure to act. The violation of the statute therefore seems a proximate though passive cause of the decedent's death. *Watts* v. *Evansville, Mt. C. & N. Ry. Co.*, 129 N. E. 315 (Ind.); *Nelson Creek Coal Co.* v. *Bransford*, 225 S. W. 1070 (Ky.); *Swaim* v. *Chicago, R. I. & P. Ry. Co.*, 187 Ia. 466, 174 N. W. 384. *Cf. Sarber* v. *Indianapolis*, 126 N. E. 330 (Ind.); *Davis* v. *Mellen*, 182 Pac. 920 (Utah). See Joseph H. Beale, "The Proximate Consequences of an Act," 33 HARV. L. REV. 633, 650–658. The theory of the majority seems to have been that the statutes in question were intended to protect only workers moving or coupling defective cars. This seems an unfortunately narrow construction. This view, however, is the real basis of the judgment. It explains the court's conclusions on causation. The decision seems also to have been influenced by deep rooted convictions on the doctrines of the last clear chance and assumption of risk, which cannot have been consciously regarded in view of the wording of the statute. Similarly, the question of a defendant's negligence is often not sharply distinguished from that of proximate causation. See *Nelson Creek Coal Co.* v. *Bransford*, *supra*; *Sarber* v. *Indianapolis*, *supra*.

QUO WARRANTO — JUDICIAL DISCRETION IN *QUO WARRANTO* AGAINST MUNICIPAL CORPORATION. — The City of Methuen, Mass., was chartered in 1917 under an unconstitutional statute. A city government was inaugurated and all the activities of a municipality carried on for two and a half years, during which time several statutes recognized its existence and state and county taxes were assessed upon it as a city. Information in the nature of *Quo Warranto* by the Attorney General in behalf of the commonwealth for a judgment of ouster against the city. *Held*, that the information should be dismissed. *Att'y Gen'l* v. *City of Methuen*, 236 Mass. 564, 129 N. E. 662.

For a discussion of the principles involved in this case, see NOTES, *supra*, p. 73.